

**BLOOMINGTON HUMAN RIGHTS COMMISSION**  
**DIRECTOR'S QUARTERLY REPORT**  
January - March 2005

I. Discrimination complaints

A. Pending from prior quarters

1. Commissioner Harlig's case

- a. Race discrimination in public accommodations case filed in May, 2004
- b. Complainant withdrew complaint in February, 2005

2. Commissioner Bangert's case

- a. Disability discrimination in employment case dual-filed with BHRC and EEOC filed in October 2004
- b. Complainant initially agreed to ask for \$3,000 and other conditions to settle case; then decided he wanted \$5 million to settle; Bloomington Human Rights Ordinance does not allow for financial settlements beyond actual damages
- c. Transferred to EEOC at complainant's request in February, 2005; EEOC accepted

3. Commissioner Huggins' case

- a. Sexual harassment case in employment case filed in October, 2004
- b. Respondent filed detailed response establishing it had a sexual harassment policy, that complainant had work performance

problems, that it had terminated other employees for similar problems and that it had investigated her allegations

- c. Complainant's attorney withdrew her representation upon receipt of response
- d. Complainant said she wanted to continue, but failed to show up for appointment
- e. No probable cause decision issued in February, 2005; not appealed

B. New Cases

1. Commissioner Bowman's case

- a. National origin and/or disability discrimination in employment case filed in March, 2005
- b. Investigation pending

2. Commissioner Calloway-Thomas' case

- a. Sex discrimination in employment case filed in March, 2005
- b. Investigation pending

C. Intakes completed and complaints filed with Equal Employment Opportunity Commission (when BHRC had no jurisdiction)

- 1. Two complaints filed with the EEOC
- 2. Three people referred directly to EEOC due to time constraints

D. Intakes and complaints filed with the Indiana Civil Rights Commission - there were no complaints filed with the ICRC

- E. Intakes/discussions that have not yet led to formal complaint being filed
1. Lesbian couple said they weren't allowed to dance or kiss at hotel bar; made and missed two appointments
  2. African American man said employer had terminated him after finding out about his criminal record; made and missed appointment
  3. Woman said that employer harassed her because of her disability, didn't provide all necessary accommodations and promoted less qualified applicant over her. All of this happened two - three years ago, outside our statute of limitations
  4. Woman said she had been terminated, either because of her work-related injury and/or her cancer. Wanted general advice before meeting with private lawyer. Did not want to file with BHRC because she wants punitive damages
  5. African American man said he had lost housing in part because of race discrimination. Dropped in without an appointment; said he would call to schedule an appointment but did not. Made an appointment to talk about job discrimination but was a no show. Called a month later, saying he had missed job discrimination appointment because he had been rehired, but now has been fired again, and made another appointment. Was a no show, again. Called a week after missing the appointment and said he had missed the appointment because, since losing his job and housing he had little money for transportation. Scheduled another appointment for the next day and was again a no show.
  6. Man married to a woman with a disability made appointment for wife, who wanted to file disability discrimination complaint against employer. Cancelled appointment

because she had to see doctor, then scheduled an appointment to file complaint of discrimination on the basis of disability in public accommodations against doctor. Then was a no show.

7. Visitor to office said that he was being denied the right to see his adult siblings, both of whom have severe disabilities. He feels that state agencies have retaliated against him because he questioned their judgment, and also because he questioned medical decisions. Not a BHRC issue. Referred to state representative and senator, Gov. Daniels, FSAA and Legal Services Organization.

## II. Miscellaneous inquiries

- A. Email writer wanted to know more about how we organized workshop on providing services to people with limited English proficiency; answered questions.
- B. Email writer, from Cape Girardeau, Missouri, reported a hate incident at a restaurant in that town. He said he had been called a racial slur on New Year's Eve and that the police, who responded to his call, did not talk to him but only to restaurant employees. (By the time the police responded, the offender was gone.) He made this report both to the chief of the Bloomington Police Department and to Bloomington United, for unknown reasons; both referred his question to the BHRC. Referred him to his local and/or state HRC, to his local police department and/or to his local prosecutor.
- C. Teachers had questions about our annual essay/arts contest; answered questions.
- D. Visitor to office had questions about sexual harassment and hostile work environment; answered questions.
- E. Caller said that employer told him a year ago that they were changing directions and they let

him go, after 19 years with the company. But then they hired him as an independent contractor, with no benefits, and he kept doing essentially the same job. He filed with the EEOC at the time (he is over 40 and has a disability), but EEOC said that since the employer didn't fill his position with another person, he didn't have much of a case. Now employer is advertising to fill the position with a regular employee. Asked if he could file another complaint with the EEOC; yes, but we couldn't evaluate the merits for him; suggested he apply for the opening and contact the EEOC.

- F. Caller said that she, an African American woman, had received threatening and racist emails from another student. The student, whom she barely knows, apparently blames her for everything bad that ever happens to him. She had contacted IUPD, which said they couldn't do anything. Referred her to BPD, which investigated.
- G. Caller had questions about locating ATM in accessible location; answered questions.
- H. Caller, a landlady, said that one of her tenants, an African American, was being annoyed by neighbors. Landlady thought that racial harassment might have been motivation, but tenant had not used that term. Gave general advice.
- I. Several calls and emails from teachers about annual essay/art contest; answered questions.
- J. Email writer asked if it was unconstitutional for City to favor Christians by picking up Christmas trees for recycling at no charge; no, likely not, as having sanitation employees pick up old trees arguably doesn't create the impression that the City supports one religion over another.
- K. Caller, a SPEA teacher, asked for names of human resources professionals who could describe their businesses' diversity programs; provided.
- L. Caller said her daughter was mistreated by a department store because she is a young,

unmarried mother. She said that the daughter was waiting for a ride for three hours, and went in and out of the store. She was accused of shoplifting, even though she had receipts. Being a young, unmarried mother is not a legally protected class.

- M. Caller said that he is 17, about to become a father and was working as a plumber's apprentice. He said that his boss repeatedly called him a stupid kid, even though he did his job well, and repeatedly grabbed him. When the caller told his boss not to grab him, he was fired. The caller said there was nothing sexual in the grabbing; the boss just liked to yell and grab. He thought it could be age discrimination, but people under age 40 are not protected by Age Discrimination in Employment Act. No civil rights violation apparent; referred to police (any unwanted touching is technically a battery) and to the unemployment office. Caller called again months later, saying he had filed a complaint with us and wanting to know how investigation was going; explained that he had not filed a complaint with us and answered questions.
- N. Caller, from Congresswoman Julia Carson's office, asked if BHRC were part of the Indiana Immigration Rights Network; no; she said we were linked on their web site and wanted to know what the network was; told her we didn't know.
- O. Email writer asked if McKinney could speak to staff about civil rights laws. Couldn't work out scheduling needs, but put together a handout for staff that addresses commonly asked questions. Email writer said that handout met their needs exactly and will be used for upcoming workshop and in the future.
- P. Caller, a city employee, said that he had attended a city workshop on sexual harassment. He asked the speaker about his experience at a previous place of employment, and she referred him to the BHRC. The harassment he encountered at a previous job happened a year ago, and thus was outside of our statute of limitations; also, the

offenders no longer work there. He said he would not have filed a complaint in any event, but was glad to know what his rights and responsibilities are if he encounters a similar situation in the future.

- Q. Email writer said that her husband's salary, from an employer not in the city limits, was garnished to pay child support. When the child turned 18, he showed his employer the court documenting saying that the garnishment should end, but the employer refused to stop the garnishment until he received additional documentation, including from the welfare office, which wasn't involved in the situation. Not a civil rights violation; gave general advice; problem resolved to writer's satisfaction.
- R. Email writer said she had been treated badly by a medical facility several years ago. She said the facility treated her as having a disability when she didn't, was rude and condescending to her and gave her a drug which caused severe side affects that still continue. Not within our statute of limitations; referred to medical malpractice lawyer and/or state licensing board. She also said that former employer had violated her confidentiality several years ago, lied about her and after she left that employer and applied for government services from the employer, said that she was treated badly. Not a civil rights violation; referred to private lawyer for possible defamation suit and/or to state representative or senator.
- S. Caller, for whom we had filed a complaint with the EEOC that alleged discrimination in employment on the basis of race and/or pregnancy (her employer was not within the Bloomington city limits) asked what she should do if her employer tried to talk to her about the complaint. Told her that she could refer all questions to the EEOC, or she could talk to the employer, and that the answer might depend upon the nature of the conversation. If the employer offers to settle, then the caller would probably want to talk with them but not make any decisions before talking to

the EEOC; if the employer is retaliating against her for filing the complaint, then she should not talk to them but call the EEOC promptly.

- T. Caller, who had received a letter from us in December about lack of properly accessible parking in his restaurant parking lot, asked for additional specifics about accessible parking. Provided.
- U. Caller, a township trustee, asked for additional copies of our brochures and coloring books for her office; provided.
- V. Caller said that landlord had given her an accessible parking space, as her doctor required, but that another tenant without a handicap placard keeps parking in the space. She said that the landlady told them to stop bickering or she would evict them all. Gave suggestions on how to deal with problem; offered to talk to landlady or maintenance person; urged caller to call back if problem not resolved.
- W. Email writer, EEOC supervisor investigator, commended the BHRC's 2004 annual report; said that any attorney or complainant who has trouble reaching the EEOC should contact her directly via email or telephone so that she may provide the best possible customer service and technical assistance to her constituents.
- X. Caller, a supervisor, had questions about dealing with a problem employee with a disability; gave general advice.
- Y. Caller, a paralegal, said her client had cancer, and her client's employer, a nonprofit agency that advocates for cancer research, was refusing to accommodate her need for leave. The agency said that as a nonprofit agency, it's not subject to the ADA. (Agency is not within the Bloomington city limits.) Nonprofits are subject to ADA if they employ 15 or more people.



- Z. Caller, president of the board of directors of a nonprofit agency, had questions about whistleblower laws; gave general advice.
- AA. Caller said that she owns a trailer and rents space in a mobile home park. She has a disability, and to help her out, her father installed an awning for her. The awning keeps snow and ice off her front area and keeps her dry if she is trying to unlock her door with tremors during a rainstorm. The landlord told her she couldn't have the awning, and her father removed it so she wouldn't be evicted. She wanted to know her rights. Under fair housing laws, landlords must allow tenants with disabilities to make modifications to their rental units at the tenant's expense if doing so is necessary to use the property and if doing so is reasonable. At her request, we wrote her a letter summarizing the law for her to share with her landlord; if necessary, she will follow up.
- BB. Caller said that landlord allowed loud 19-year-olds to rent space near him, making it almost impossible for him to stay in the apartment. When he complained, landlord said that he couldn't discriminate against tenants on the basis of age. Told him that a, age discrimination is not prohibited by fair housing laws and b, not all 19-year-olds are loud; the problem is the loud tenants, not the young tenants.
- CC. Caller said that every time he or his coworkers need time off for medical reason, employer demands not only doctor's statement but also specifics about diagnosis. Not illegal under ADA, as long as employer keeps medical information confidential and separate from personnel file. He asked if it was illegal under HIPPA rules; referred to Health and Human Services for information.
- DD. Email writer asked for copies of our hate incidents reports from 2000 to current; provided.
- EE. Caller had questions about acquaintance, young man coming to terms with his homosexuality, who

has been convicted of child pornography and is now serving time; looked at pictures on the web of a man only a year or so younger than he; tried to give general advice and made referral.

- FF. Email writer asked for citation for ADA regulations for new construction; provided.
- GG. Caller asked for information about buying a HUD home; referred to HUD and to local Realtor,
- HH. Caller, an attorney from Indianapolis, asked if City of Bloomington has program in place to certify businesses as women or minority owned. No.
- II. Caller, a developer, had questions about whether housing designed for older people can prohibit children, yes, if certain conditions met; if new housing has to be accessible, yes, if qualifies as "covered multifamily dwellings;" about what qualifies as a "public accommodation" under the law, any business open to the general public.
- JJ. Caller asked if a person with hepatitis C would be considered to have a disability under the law; possibly yes, if condition results in a substantial impairment to a major life activity or if the employer considers the person to have a disability.
- KK. Caller asked if surveying/engineering services are covered by common wage law; statute is unclear, but Indiana Department of Labor representative said no.
- LL. Caller, a white woman with an adult biracial daughter, said that a department store had unfairly accused her daughter of shoplifting. The experience was humiliating. Asked if her daughter could file a complaint of race discrimination in public accommodations; yes. She said she would have her daughter call us, but thus far daughter has not.
- MM. Caller requested 100 BHRC activity books for program at local health facility; provided.

- NN. Caller, a white man, said he was ready to close on FHA loan when bank's attorney noticed that someone had crossed out "fair" and written in "poor" when referring to condition of house. Caller said he had been at inspection where it rated a "fair" rating. Bank was now refusing loan. Not a BHRC issue; referred to private attorney or housing authority.
- OO. Caller, a woman who had worked for fraternal organization for 20 years, said that president of organization was trying to reduce her hours and give them to his wife. Such a move would cut her current pay and also her social security and pension benefits down the road, and would take away her health benefits. His proposal would not comply with current by-laws that she said he is trying to amend. No evidence of race, age, etc., discrimination. Referred to private lawyer who could address pension, by-law and health insurance questions.
- PP. Email writer wanted to file a complaint against BPD on behalf of her brother, who has a mental disability. Referred to chief of police, Board of Public Safety, Indiana Civil Rights Commission and/or Indiana Civil Liberties Union.
- QQ. Caller, who has been working on ADA-related issues in Washington, D.C. and who is thinking of moving to Bloomington, asked to be kept in mind if any ADA-related jobs opened up. Agreed to keep her resume on file and let her know.
- RR. Email writer, an IU student in a sustainable city class, asked for the name of the report(s) that would show the number of discrimination cases and hate incident reports each year. She didn't want the numbers but just the names of the reports for her paper. Provided.
- SS. Email writer, an apartment complex manager, said that she asks prospective tenants if they have a criminal history. An applicant said no, but a criminal record search said yes, he had a felony drug conviction on his record. The prospective tenant said he had successfully undergone rehab;

the manager asked for proof; the prospective tenant said that "the statute of limitations had expired" and she couldn't ask him that. She asked us if that was true. Told her that to the best of our knowledge, it's not true.

TT. Caller said that he is an independent contractor who has been harassed by a coworker because of his sexual orientation. He said his supervisor is good friends with the harasser and tends to take the harasser's side. Caller said he loves his job and fears the harasser will set him up to fail. Not covered by human rights ordinance because caller is an independent contractor. Gave advice on documenting problems and discussing with supervisor. Caller later wrote and said his harassment concerns had proven unfounded.

UU. Email writer asked for advice for transgendered person, not in Bloomington, who was harassed at work to the point where he felt compelled to quit. Gave general advice.

### III. Publicity

- A. Public service announcements sent to radio stations
- B. Mailed 150 copies of monthly newsletter, Rights Stuff, to businesses, agencies and individuals, and distributed 100 copies at bookstores, coffee houses and library
- C. H-T interviewed McKinney about Alene Williams, complainant in the 1988 BHRC case Williams v. Yellow Cab; Mrs. Williams died in late 2004 at 101
- D. WFIU interviewed McKinney about hate incidents teach-in forum
- E. IDS interviewed McKinney about student response to hateful messages
- F. Article in Business Network about BHRC Human Rights Awards

- G. Article in H-T about BHRC essay/art contest winners
  - H. H-T printed guest editorial by Jeff Harlig about BHRC
  - I. Bowman and Sarah Jaramillo, BHRC intern, distributed BHRC materials on campus
  - J. BHRC materials sent to Legal Services of Indiana, Student Legal Services and Community Legal Clinic
  - K. Article in H-T about BHRC human rights award winners
- IV. Networking/education
- A. BHRC tabulated results from survey of community needs about providing interpreters and understanding other cultures; McKinney attended meetings planning workshops based on community survey
  - B. McKinney attended Women's History Month lunch planning meetings
  - C. BHRC co-sponsored hate incidents teach-in forum
  - D. McKinney met with Mayor Mark Kruzan, director of city's employee services department, director of city's safe and civil city program and representatives of Monroe County NAACP to discuss city's minority employment and affirmative action plan
  - E. McKinney attended city-campus partnership meeting
  - F. McKinney attended Black History Month Kick-off celebration
  - G. Harlig and McKinney staffed table at rededication of Banneker library
  - H. Toddy and McKinney attended Women's History Month lunch; Toddy staffed table

- I. McKinney surveyed commissioners about perceived impediments to housing availability for HAND report
- IV. Affirmative action/common wages
- A. McKinney reviewed thirteen affirmative action plans; found one plan to be unacceptable; bidder appealed successfully to BHRC
  - B. Toddy closed seven common wage files
  - C. Toddy conducted one on-site visit
- VI. ADA Issues
- A. Complaint said newly-opened bar not accessible; wrote letter
  - B. Complaint asked if new restaurant had fixed problem of too-narrow restroom doors; yes
  - C. Complaint said that second-story restaurant was not accessible to people with disabilities; true, but likely no readily-achievable way to correct problem. There is a ramp with landings, too steep for ADA but way for some people to gain entry
  - D. Complaint that three city parking lots not in complete compliance with ADA; city promised to correct problems